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PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application of

Applicants : Dalmais et al.
Serial No. : 10/684,787
Filed : October 14, 2003
Title : PRINTING BLANKET AND METHOD FOR REDUCING CORROSION AND ABRASION OF PRINTING BLANKETS AND BLANKET CYLINDERS
Docket No. : DAY 0766 PA/40195.733
Art Unit : 1773
Confirm. No. : 2991
Examiner : Kevin R. Kruer

MAIL STOP APPEAL BRIEF - PATENTS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on January 31, 2007.

Susan M. Funa

Agent Reg. No. 38,769

Sir:

REPLY BRIEF

This Reply Brief is being filed pursuant to the provisions of 37 CFR §41.41(a)(1) in response to the Examiner's Answer mailed December 13, 2006. Arguments responsive to the issues raised in the Answer are set forth below. Pursuant to § 41.43(a)(1), the Examiner is requested to acknowledge receipt and enter the reply brief.

Rejection of claims 2, 4-9, 21, and 22 under U.S.C. 103(a)

In response to appellant's argument that 1) Bresson does not teach or suggest a protective polymer film for use on the surface of the metal base ply of a printing blanket construction and 2) there is no teaching or suggestion that Bresson's "optional" adhesive would function as a protective polymeric film for reducing corrosion and abrasion, the Examiner asserts that "Bresson was never relied upon for such teachings." Applicants acknowledge the Examiner's concession that Bresson fails to teach or suggest these claimed features.

Rather, the Examiner asserts that the combination of Bresson, Linska and Pinkston teach the claimed printing blanket comprising the protective polymeric film. However, there has to be some suggestion for one skilled in the art to combine the reference teachings, and in particular to modify Bresson in the manner proposed by the Examiner. Here, there is none. While the Examiner maintains that it would have been obvious to substitute the adhesive coated foil of Linska in place of the adhesive layer of Bresson, neither Bresson nor Linska teach or suggest placing a polymeric film on a metal base layer of a printing blanket as claimed. And Bresson does not teach a need to reduce corrosion and abrasion of a printing cylinder as conceded by the Examiner.

Also as conceded by the Examiner, Linska does not teach that the outer adhesive layers of his adhesive foil function as protective polymeric layers. While the Examiner has taken the position that "any polymeric layer inherently functions as a protective layer," he has pointed to no reference teachings which support his speculation, but rather asserts that appellants have not presented any evidence to the contrary. That assertion misplaces the burden of proof as the Examiner has not established a prima facie case of obviousness with regard to any of the claims. Nor has the Examiner established that the property of reduced corrosion and abrasion is inherent in the combined teachings of the references.

Even then, the claims are not met because the Examiner must further rely on Pinkston. The Examiner further maintains that it would have been obvious to substitute the corrosion-inhibiting layer of Pinkston in place of the foil taught by Linska. While appellants previously pointed out that Pinkston is not concerned with reducing corrosion and abrasion of a printing blanket as claimed, the Examiner maintains that the corrosion-inhibiting layer of Pinkston is "functionally equivalent" to the corrosion-inhibiting foil layer of Linska. However, there is nothing in either of the references which suggests the functional equivalence of a layer containing metal particles (which has been ground) with an adhesive coated foil layer. Functional equivalence, even if it existed (which it does not), does not establish obviousness. Nor is there any expectation of success if one were to make the proposed substitution.

The Examiner has further taken the position in the Answer that "the printing blanket rendered obvious by Bresson in view of Linska and Pinkston is structurally identical to the claimed printing blanket" and has thus concluded that "it is understood to inherently reduce corrosion and abrasion of printing blankets and cylinders." Again, the Examiner has failed to provide any evidence that the proposed substitutions would inherently reduce the corrosion and abrasion of printing blankets and cylinders as claimed.

There is no suggestion in the prior art to make the proposed modifications. Even if the proposed modifications were made, the claimed printing blanket having a metal base ply and a protective polymer adhered to the second surface of the base ply with an adhesive would not result.

Conclusion

The Examiner has failed to carry his burden of establishing a prima facie case of obviousness as to all of the claims on appeal. The Board is requested to reverse the rejection of claims 2, 4-9, 21, and 22.

Respectfully submitted,

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